

DEPARTMENT OF ENVIRONMENTAL PROTECTION DIVISION OF WATER RESOURCES TRENTON, NEW JERSEY 08625

April 6,1976

Mr. Henry Gluckstern, Esq. 26 Federal Plaza New York, New York 10007

Re: State v. Robert M. Wolf et al

Dear Henry:

Enclosed is a copy of a complaint filed recently in Bergen County Superior Court, Chancery Division in the referenced matter. No trial date has been established.

Deputy Attorney General Ron Heksch is handling this for the State.

Sincerely yours:

David C. Longstreet

Supervisor, Spill Prevention Office of Special Services

c.c.: R. Heksch, D.A.G.

Enc:

E23:G6





, denne start

SUPERIOR COURT OF NEW JERSEY CHANCERY DIVISION, BERGEN COUNTY DOCKET NO.

STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION,

Plaintiff,

Civil Action

COMPLAINT

v.

ROBERT M. WOLFE and RITA WOLFE, THE UNITED STATES LIFE INSURANCE COMPANY, a New York corporation, VENTRON CORPORATION, a Massachusetts corporation, and WOOD RIDGE CHEMICAL, a Nevada corporation,

Defendants.

The State of New Jersey, by the Department of Environmenal Protection, having its principal office in the Labor and
Industry Building, John Fitch Plaza, Trenton, New Jersey 08625,
by way of complaint against the defendants says:

FIRST COUNT

- 1. The DEP is empowered by N.J.S.A. 13:1D-9 to "...
 institute legal proceedings for the prevention of pollution of
 the environment and abatement of nuisances in connection therewith
 and shall have authority to seek and obtain injunctive relief and
 the revovery of fines and penalties ..."
- 2. More specifically, the Department is empowered by N.J.S.A. 58:10-23.8 to seek injunctive relief and recover some



sums expended in preventing and correcting the damage done by the discharge of hazardous substances, debris and petroleum products into or upon the waters of the State.

- 3. The defendants, Ventron Corporation and Wood Ridge Chemical, are corporations who did business at diverse locations throughout and beyond the State of New Jersey. In particular, said defendants owned a parcel of land in the Borough of Wood-Ridge, Bergen County, New Jersey, formatt formerly designated as Block 229, Lot 10, presently designated as Lot 229, Lots 10BA and 10B, on the tax maps of said borough, anstroy approximately 6.50 access.
- 4. The defendants, Ventron Corporation and Wood Ridge Chemical, for many years operated a mercury processing facility, at the aforementioned property in the Borough of Wood-Ridge which handled pure mercury, distilled mercury, mercury compounds and other hazardous substances.
- 5. On ora about May 7, 1974, the premises in questions were purchased by defendants Robert M. Wolfe and Rita W. Wolfe, his wife.
- 6. On or about December 11, 1975, Robert M. Wolfe and Rita W. Wolfe, his wife, sold a portion of said premises, to wit,

Block 229, Lot 10A, to defendant The United States Life Insurance Company, a New York corporation registered to do busines s in the State of New Jersey.

- 7. As a direct result of defendants' activities at the aforementioned premises, quantities of mercury, distilled mercury, mercury compound and other hazardous substances have been leaked, dripped, spilled and discharged from the real and personal property of the defendants, aforesaid, into the soils underlying the property in question.
- 8. The soils of the land in question have for some time been saturated with mercury, distilled mercury, mercury compounds and other hazardous substances and by measons of the forces of gravity, drainage, absorption, runoff and related processes, large quantities of the aforesaid mercury, windst distilled mercury, mercury compounds and other hazardous substances have been discharged into the ground and/or surface waters in and about defendants' lands, in particular, Berry's Creek.

- 9. The soils of the premises in question have for some time been saturated with mercury, distilled mercury, mercury compounds and other hazardous substances wherefrom, measurable quantities of mercury, distilled mercury, mercury compounds and other hazardous substances have migrated, runoff, and discharged into the waters of the State.
- 10. Such discharge is in violation of N.J.S.A. 58:10-23.4; constitutes a threat to the environment and the health and welfare of the residents of the area; and is inimical to the best interests of the people of the State of New Jersey.
- 11. The Department has notified the defendants of the discharge complained of and has instructed the defendants as to the manner of correcting the conditions giving rise to said discharge in accordance with N.J.S.A. 58:10-23.5.
- 12. To date defendants have failed to correct such condition in a manner satisfactory to the Department and have indicated their refusal to so perform, all in contravention of the statutes as aforesaid.

13. The Department intends to authorize third parties to correct the condition complained of at the expense of defendants pursuant to N.J.S.A. 58:10-23.5 and 58:10-23.7.

WHEREFORE, plaintiff demands judgment on this count ordering the defendants:

- (a) Immediately to cease discharging mercury, distilled mercury, mercury compounds and other hazardous substances into the waters of the State of New Jersey;
- (b) To correct the condition giving rise to such discharge to the satisfaction of the Department;
- (c) To reimburse the State for such costs as may be incurred, pursuant to N.J.S.A. 58:10-23.5 and N.J.S.A. 58:10-23.7; and
- (d) For such other relief as the court might deem just and proper; and
 - (e) For costs of suit.

SECOND COUNT

1. The plaintiff repeats all of the allegations of the First Count with the same force and effect as if fully stated herein.

- 2. The Department is empowered by N.J.S.A. 23:5-28 to in seek injunctive relief and penalties km preventing the discharge and drainage of deleterious substances into the waters of the State.
- 3. On diverse and numerous dates over a period of years, mercury, distilled mercury, mercury compounds and other hazardous, deleterious, destructive and poisonous substances have been drained from the premises in question into the ground and surface waters on and adjoining said lands in violation of N.J.S.A. 23:5-28.
- 4. Despite knowledge of the condition giving rise to said unlawful drainage and discharge and the recommendations of the Department as to the method for the correction of same, defendants have refused to take steps to eliminate said unlawful drainage and correct the condition giving rise to same.
- 5. A person violating N.J.S.A. 23:5-28 is liable to a penalty of not more than \$6,000 for each offense.
- 6. Defendants have violated the applicable provisions of N.J.S.A. 23:5-28 on diverse occasions.

WHEREFORE, plaintiff demands judgment on this count ordering the defendants to:

- (a) Prohibit and correct the drainage and/or discharge of mercury, distilled mercury, mercury compounds and other hazardous and deleterious substances into the waters of the State;
 - (b) Pay a penalty of \$6,000 for each offense;
- (c) Such other relief as the court might deem just and proper; and
 - (d) For costs of suit.

THIRD COUNT

- 1. The plaintiff repeats all of the allegations of the First and Second Counts of the complaintwith the same force and effect as if fully stated herein.
- 2. The conditions giving rise to the discharge which is the subject of this complaint constitutes a continuing public nuisance dangerous to the residents of the immediate area, the environment of the region as a whole and the public interest.

- 3. On diverse occasions, the Department has advised defendants of methods to be employed in correcting the conditions complained of so as to eliminate said public nuisance.
- 4. The defendants have refused and continue to refuse to correct said conditions so as to $(\sqrt{N})\sqrt{A^{-1}}$ the resulting public nuisance in a manner satisfactory to the Department.

WHEREFORE, plaintiff demands judgment ordering the defendants to:

- (a) Immediately eliminate, in a manner satisfactory to the Department, the public nuisance created by the mercury, distilled mercury, mercury compounds and other hazardous substances which saturate the soils on the lands as specified aforesaid;
- (b) Take all steps necessary to prevent mercury, distilled mercury, mercury compounds and other hazardous substances from draining into the waters of the State;
 - (c) Such other relief as the court may otherwise direct; and
 - (d) For costs of suit.

Note - do we want to mention of contaminat of potable water source.